

Assembly Joint Resolution No. 18

RESOLUTION CHAPTER 111

Assembly Joint Resolution No. 18—Relative to equal rights.

[Filed with Secretary of State September 9, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AJR 18, Skinner. Equality of rights for men and women.

This measure would urge the Congress of the United States to pass Senate Joint Resolution No. 10, an amendment to the Constitution of the United States that is subject to ratification by the legislatures of $\frac{3}{4}$ of the states, to ensure that equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

WHEREAS, The traditional Equal Rights Amendment (ERA) ratification bill has been introduced as Senate Joint Resolution No. 10 in the 113th Congress of the United States with 10 cosponsors from the United States Senate on March 5, 2013; and

WHEREAS, The ERA was first written by Alice Paul, the head of the National Woman's Party, and has been introduced in every Congress of the United States since 1923, except for the period during which it was sent to the states for ratification, in order to guarantee that the rights affirmed by the United States Constitution are held equally by all citizens without regard to sex; and

WHEREAS, The ERA would provide a fundamental legal remedy against sex discrimination for both women and men; and

WHEREAS, The ERA would clarify the legal status of sex discrimination for the courts, where decisions still deal inconsistently with such claims; and

WHEREAS, The ERA would make "sex" a suspect classification, as race currently is, so that governmental actions that treat males and females differently as a class would have to bear a necessary relation to a compelling state interest in order to be upheld as constitutional; and

WHEREAS, The ERA was first passed by Congress in 1972 and was sent to the states for ratification, but was three votes shy of the 38-state requirement for ratification by the June 30, 1982, deadline; and

WHEREAS, California was among the first states to ratify the ERA in 1972; and

WHEREAS, The ERA has been reintroduced in Congress each year since 1982 and has seen legislative activity in 8 of the 15 nonratifying states; and

WHEREAS, The first, and still the only, right that the United States Constitution specifically affirms to be equal for women and men is the right

to vote under the 19th Amendment, that was ratified by the states in 1920; and

WHEREAS, The equal protection clause of the 14th Amendment, has never been interpreted to protect against sex discrimination in the same way that the ERA would; and

WHEREAS, In September 2010, Supreme Court Justice Antonin Scalia said he does not believe that the United States Constitution, specifically the 14th Amendment, protects against sex discrimination; and

WHEREAS, In the cases of *Craig v. Boren* (1976) and *United States v. Virginia* (1996), the United States Supreme Court declined to elevate sex discrimination claims to the strict scrutiny standard of review that the 14th Amendment requires for certain suspect classifications such as race, religion, and national origin; and

WHEREAS, The ERA has not been ratified in 15 states including Alabama, Arizona, Arkansas, Florida, Georgia, Illinois, Louisiana, Mississippi, Missouri, Nevada, North Carolina, Oklahoma, South Carolina, Utah, and Virginia; and

WHEREAS, The state constitutions of Alaska, California, Colorado, Connecticut, Florida, Hawaii, Illinois, Iowa, Louisiana, Maryland, Massachusetts, Montana, New Hampshire, New Jersey, New Mexico, Pennsylvania, Rhode Island, Texas, Utah, Virginia, Washington, and Wyoming all provide guarantees of equal rights on the basis of sex; and

WHEREAS, Without the addition of the ERA to the United States Constitution, legislation and case law that has resulted in extraordinary progress for women has the potential to be ignored, weakened, or reversed. Congress can amend or repeal legislation advancing equality with a simple majority vote, the presidential administration can weakly enforce these laws, and the United States Supreme Court can continue to use intermediate scrutiny when reviewing cases concerning gender; and

WHEREAS, It is vital that we have a declaration of gender equality outlined in the United States Constitution; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature requests the Congress of the United States to pass Senate Joint Resolution No. 10, an amendment to the Constitution of the United States that is subject to ratification by the legislatures of three-fourths of the states, to ensure that equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, and to the Members of the United States Congress.